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Writer's Direct Access
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February 25, 2011

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, S.W.
Washington, DC 20554

Re: Notice of Ex Parte Communication
WC Docket No. 07-245 ("Pole Attachment Proceeding"); and
GN Docket No. 09-51 ("National Broadband Plan Proceeding")

Dear Ms. Dortch:

Please accept this letter, filed pursuant to Section 1.1206 of the Commission's Rules, as notice that on February 24, 2011, representatives of 27 electric utilities and their trade associations met with Federal Communications Commission Staff to discuss issues of concern to utility pole owners in the Pole Attachment proceeding.

FCC Staff included Zac Katz, Legal Advisor to Chairman Genachowski, Margaret McCarthy, Policy Advisor to Commissioner Copps, Angela Kronenberg, Legal Advisor to Commissioner Clyburn, Brad Gillen, Legal Advisor to Commissioner Baker, and the following representatives of the Wireline Competition Bureau: Bill Dever, Al Lewis, Jenny Prime, Jonathan Reel and Marv Sacks.

Thirty-three people represented the electric utility industry and their names are included on the attached sign-in sheet. They include representatives of the Edison Electric Institute ("EEI"), the Utilities Telecom Council ("UTC"), and the following electric utilities:

Allegheny Power
American Electric Power
American Transmission Company
Baltimore Gas and Electric
Dominion Virginia Power
DTE Energy (Detroit Edison)
Duke Energy
Duquesne Light Company

Edison International (SoCal Edison)
FirstEnergy Corp.
Florida Power and Light
Georgia Power
National Grid
Pacific Gas and Electric
Pepco Holdings
Xcel Energy

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Also in attendance were attorneys representing EEI/UTC, the Alliance for Fair Pole Attachment Rules (American Electric Power, Duke Energy, Entergy, Florida Power and Light, Progress Energy and Southern Company), the Coalition of Concerned Utilities (Allegheny Power, Baltimore Gas and Electric, Dayton Power and Light, FirstEnergy Corp., NSTAR, PPL Electric Utilities, South Dakota Electric Utilities, and Wisconsin Public Service Co.), Oncor Electric Delivery, Pole Owners Working for Equitable Regulation (Ameren Services Company, CenterPoint Energy, Houston Electric, and Virginia Electric and Power Company), and Integrys Energy.

This meeting follows up on a November 16, 2010 meeting at which 49 representatives of the electric utility industry met with representatives of the Wireline Competition and Enforcement Bureaus.

At our February 24 meeting, representatives of six different electric utilities discussed the attached PowerPoint presentation, which highlights the realities of the pole attachment process. They explained that electric utilities have done a great deal already to promote broadband development and will continue to do so but that the process is complex and dangerous and cannot simply follow a cookie-cutter approach. Everyone involved, including communications companies and the public, need to be assured that careful due diligence has been applied to all the safety and operational factors involved in the process. And because it is so complicated, it is not a process that lends itself to narrow government mandates. It is also not a process that can be handed off to contractors under the control of communications companies.

We described the process that utilities go through in accommodating attaching entities, which has helped to enable communications companies to provide broadband service to 95% of the country to date. We therefore explained how the current system has worked well without extensive government oversight.

We explained that each make-ready job is different, as is each utility performing the make-ready. We also described some of the numerous factors that are entirely outside of anyone's control that can delay a project.

We explained our view that moving this activity from qualified field work to an FCC regulation environment will make the process more burdensome for everyone – the pole owners, the communications attachers and the FCC, while doing very little to promote broadband deployment.

We described the cooperation that must exist in order for the process to work and the cooperative relationship that currently exists among the vast majority of pole owners and attaching entities.

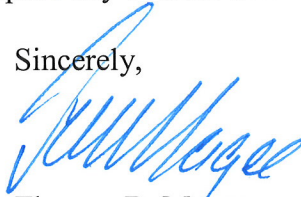
KELLER AND HECKMAN LLP

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Finally, we discussed the significant differences between joint use agreements between ILEC and electric pole owners, and third party pole attachment agreements between the pole owners and the cable company and CLEC attachers, and why lowering the rate charged for attachments by ILEC pole owners would give ILECs a competitive advantage over the third party cable and CLEC attachers.

We appreciate the Staff's attention to these matters. Please feel free to contact the undersigned if you have any questions or require any additional information.

Sincerely,



Thomas B. Magee
Jack Richards
Attorneys for the
Coalition of Concerned Utilities

Attachments

cc: The Honorable Julius Genachowski, Chairman
The Honorable Michael J. Copps, Commissioner
The Honorable Mignon Clyburn, Commissioner
The Honorable Robert M. McDowell, Commissioner
The Honorable Meredith Attwell Baker, Commissioner

Zac Katz
Margaret McCarthy
Angela Kronenberg
Christine Kurth
Bradley Gillen
Sharon Gillett
Christi Shewman
William Dever
Al Lewis
Jennifer Prime
Jonathan Reel
Marv Sacks




Electric Utility Pole Attachment Meeting for FCC Staff

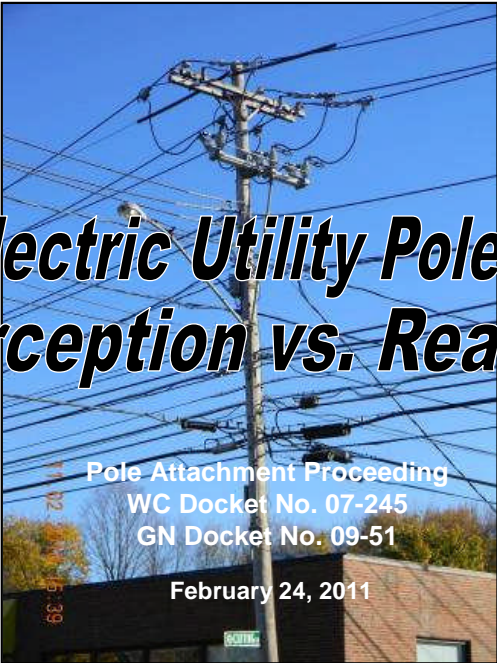
Sign-In Sheet





Name	Title	Company
Tom Magee	Partner	Keller and Heckman LLP For the Coalition of Concerned Utilities
Aryel fishman	Director, Regulatory Legal Affairs	Edison Electric Institute
Tom St. Pierre	Senior Counsel	American Electric Power
STEVE EISENBAUGH	MANAGER CUSTOMER SOLUTIONS	Dominion
JOE SNYDER	MANAGER - TELECOMMUNICATION ATTACH	NATIONAL GRID
Darryll Wilson	Joint Use Coordinator	Georgia Power
Thomas J. Kennedy P.E.	Principal Regulatory Affairs Analyst	FLORIDA POWER & LIGHT CO.
Andy Russell	Site Project Manager	Eden Energy
Russ Campbell	Partner	Balch & Bingham LLP
Bill Dever	Div. Chief	WCB / CPD
GREG WOLFE	MANAGER, DIST. LINE MAINT	ALLEGHENY POWER
Dave Hawk	SPC. Outside Plant	Allegheny Tower
GREGORY T. OBENCHAIN	MANAGER, DISTRIBUTION OPERATIONS & STANDARDS	EDISON ELECTRIC INSTITUTE
COLIN DANVILLE	SUPERVISOR - JOINT USE PILE	Peprco Holdings
Ted Bornstein	Partner	Foley & Lardner LLP on behalf of Integrys Integrys Energy

Name	Title	Company
Matt Miller	Manager Federal Affairs	Edison International (FPL)
KEN GILBERT	LEADER JOINT USE-DSBN	FLORIDA POWER & LIGHT CO.
Bob Linden	Comm Engr / Post Mgr.	Duguesne Light
Karen Britto	DTE Manager of Fed. Affairs	DTE Energy
Jack Richards	Partner	Keller and Hornum LLP
Michael S. Wolfe	Attorney	FirstEnergy
Amy GUTBERLET	BGE / SUPERVISOR	BGE
Kevin Cookler	Of Counsel	Fish & Richardson P.C.
Shirley Fujimoto	Principal	Fish & Richardson PC
Brett Kilbourne	Deputy GC	Utilities Telecom Council
Rick Meeker	Info. Mgmt Analyst	BGE
Meghan Gruebner	Associate	Hunton & Williams
Heath Knutnahs	Dir. of Federal Affairs	American Transmission Company
Darren Deffner	Manager of Fed Affairs	PG+E
Jonathan Reel	Attorney - Advisors	FCC / WCB / CPD
Marv Sacks	Attorney - Advisor	FCC / WCB - Pricing Policy Div.
Al Lewis	Chief, Pricing Policy Div. (WCB)	FCC
Jenny Prime	Legal Counsel, Wireline Competition B.	FCC

[illegible]



Electric Utility Poles Perception vs. Reality

Introduction

Aryeh Fishman

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- Phone: (202) 508-5023

Moderator

Tom Magee

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For the *Coalition
of Concerned Utilities*

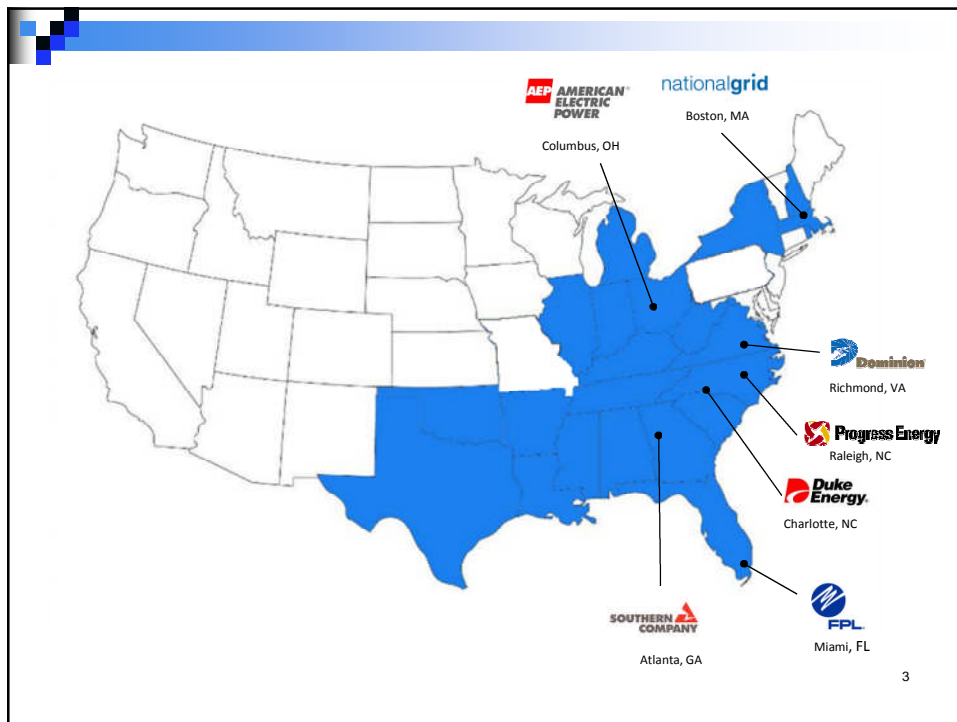


**EDISON ELECTRIC
INSTITUTE**
The Association of Shareholder-Owned Electric Companies



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Agenda

A. Make-Ready Deadlines Won't Work

1. Safety and Reliability Concerns
2. Every Make-Ready Job is Different
3. Multi-Party Coordination – Pole Owner Does Not Control Attachers
4. Other Factors Beyond Pole Owner Control

B. Contractors Won't Solve the Problem

5. Electric v. Communications Work
6. Why Utilities Must Control Electric Make-Ready

C. ILEC Advantages Over 3rd Party Attachers

7. Can't Give ILECs Same Rate

Safety and Reliability

“Electric System Safety and Reliability Must Trump Make-Ready Deadlines”

Scott Freeburn
Progress Energy



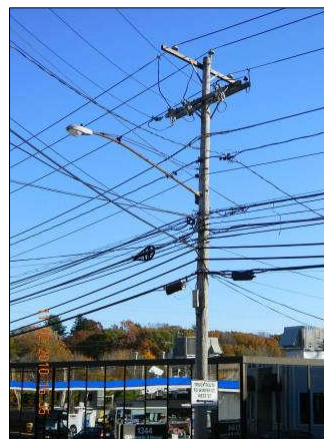
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Pole Attachments

Perception



Reality



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Pole Attachments - Conflicting Objectives

Telecom

- Speed to market
- Priority service
- One size fits all rules

Electric Utility

- Worker & Public Safety
- System Reliability
- Minimizing Operational Impact

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Pole Attachments - Safety

Ocala FL, Ocala.com February 11, 2009 -- An electrical contractor died Tuesday night after he was electrocuted while working on power lines.

SHARON MA, The Boston Globe April 17, 2006 -- A repairman for a communications company was electrocuted yesterday morning while making repairs on a telephone pole.

PROVIDENCE RI, Powerlineman.com July 19, 2006 -- A communication company worker suffered an electric shock and was severely burned yesterday.

MARPLE TOWNSHIP, PA, The Philadelphia Inquirer June 30, 2010 -- A communication company technician accidentally electrocuted Tuesday afternoon.

8

California Wildfires October 2007

- CPUC blames non-compliant electric facilities and cable attachments for deadly wildfires
- Cox overloading made contact with electric primary
- 1,300 homes destroyed
- 200,000 acres burned
- 2 dead
- 300 victims file lawsuits



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Pole Attachments - Reliability



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Pole Attachments - Reliability

February 7, 2010 Associatedcontent.com Blizzard Report: Metro Washington DC Suffers Massive Outages, No Heat, No Public Transport

July 26, 2010, CNN.com Power outages plague DC region after storm that killed 2 people

August 12, 2010 The Washington Times Storms swept through the Washington region knocking out power to thousands of customers

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Key Takeaways

- Safety and Reliability Concerns Drive Electric Utility Operations
- Electric Distribution Safety and Reliability Must Come Before Deadlines

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Every Make-Ready Job is Different

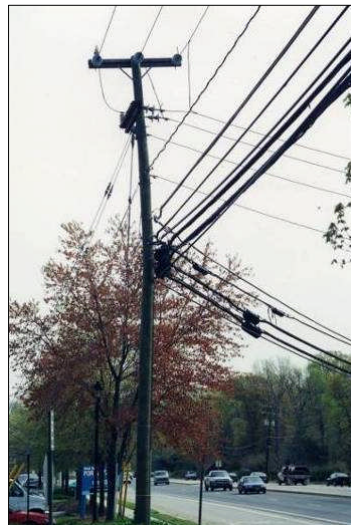
“Deadlines For Make-Ready Are
Unworkable Because Every Make-
Ready Job is Different”

Andy Russell, P.E.
Duke Energy



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Each Job is Different



Electric Space vs Communication Space



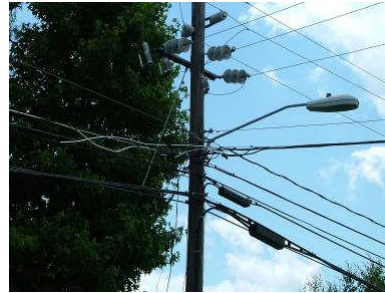
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Make-Ready Work Varies



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Reality: Joint Use Poles Are Not Widgets



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Reality: Location Matters

Backyard Access Only:
Must Climb Pole

Vegetation, Tree
Trimming
Required



Climbing
Obstructions

Fence

18

Make-Ready Projects Typically Involve Multiple Poles With:

- One or More Facility Owners
- Complex Construction
- Rearrangement of Electric Facilities
- Rearrangement of Comm Facilities
- Pole Change Outs



Key Takeaways

- Electric Distribution Poles Are All Different
- The Complexity of Make-Ready Work Varies
- The Time Necessary to Complete Make-Ready Depends on the Job
- One-Size-Fits-All Timelines for Make-Ready are Unworkable

Multi-Party Coordination

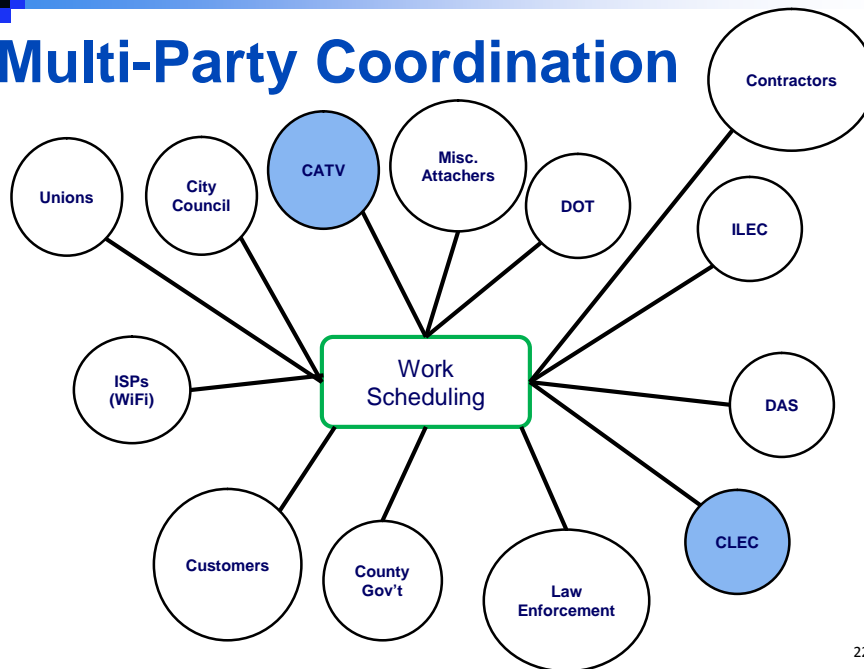
“Multi-Party Coordination Renders
Make-Ready Deadlines Impossible,
Particularly Since Pole Owners Do Not
Control Other Attachers”

Thomas J. Kennedy, P.E.
Florida Power and Light Co.



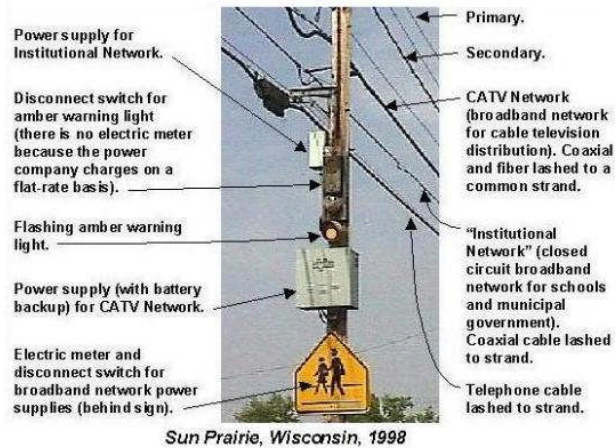
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Multi-Party Coordination



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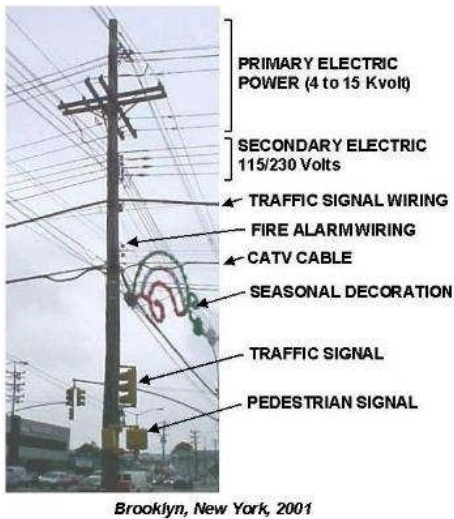
Multi-Party Coordination



Example 1

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Multi-Party Coordination



Example 2

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Multi-Party Coordination ≠ Deadlines

- Each Existing and New Attacher Must Be Involved in the Design Phase
- Existing Attachers Alone Can Determine How to Safely and Reliably Transfer Their Facilities
- Existing Attachers Alone Can Estimate the Time Frame Needed to Relocate
- **The Pole Owner Does Not Control Existing Attachers**

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Collaboration Can Speed The Attachment Process



1 permit
8,000 attachments
Poor pre-planning
45 days = No way

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Key Takeaways

- Existing attachers cause delays
- Pole owners have no control over existing attachers
- Attachers must pre-plan and pre-engineer
- Collaboration and coordination with pole owner = faster speed-to-market

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Other Causes of Delay

“Numerous Other Factors Beyond the Control of Pole Owners Cause Make-Ready Delays That Make Deadlines Impossible to Meet”

Darryll Wilson
Georgia Power



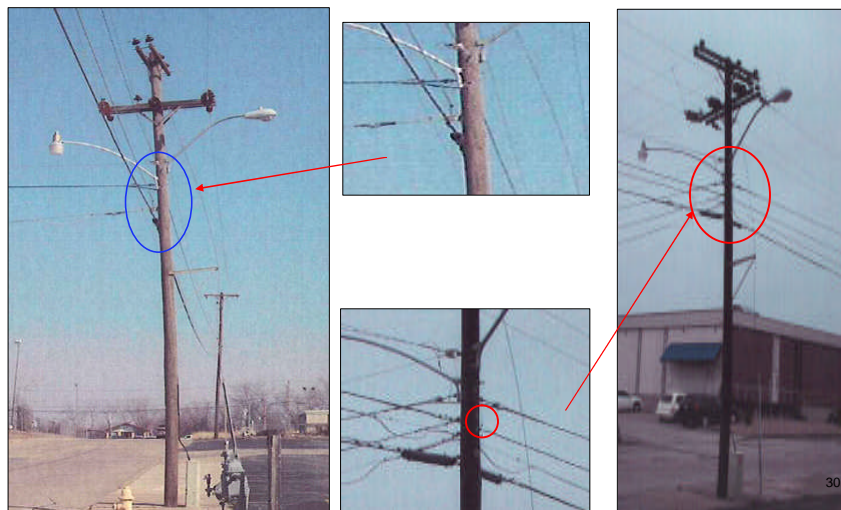
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Incorrect Applications Cause Delays

The image shows two examples of incorrectly filled-out "POLE ATTACHMENT DATA SHEET - CABLE/CABINET" forms. The left form is heavily annotated with handwritten corrections and a blue stick figure pointing to errors. The right form has a large orange stamp that says "APPROVED" over the top half, indicating a false approval.

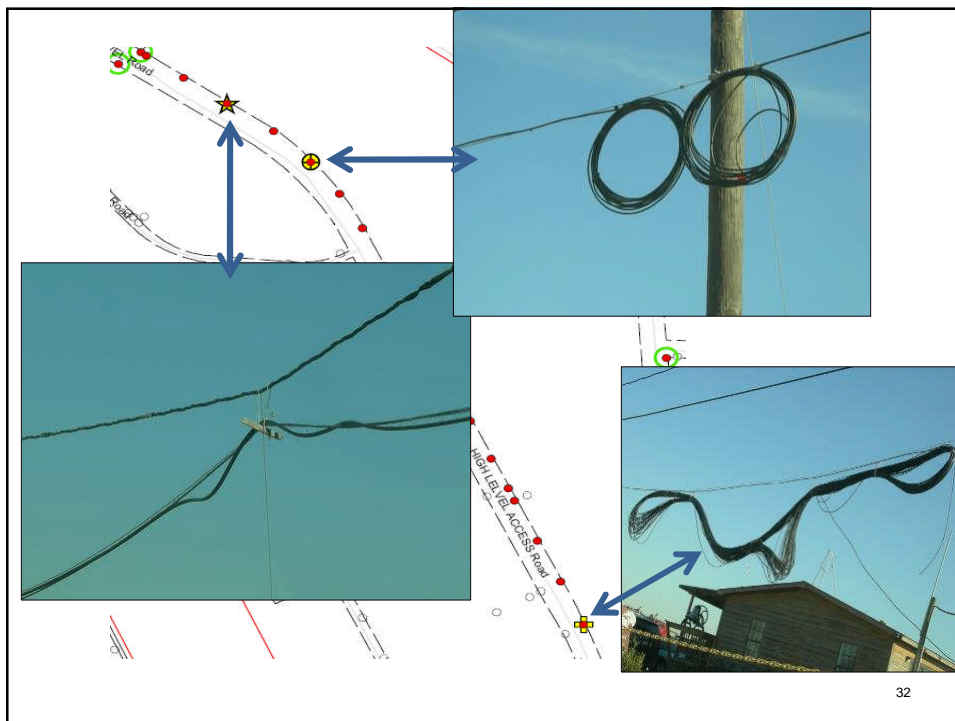
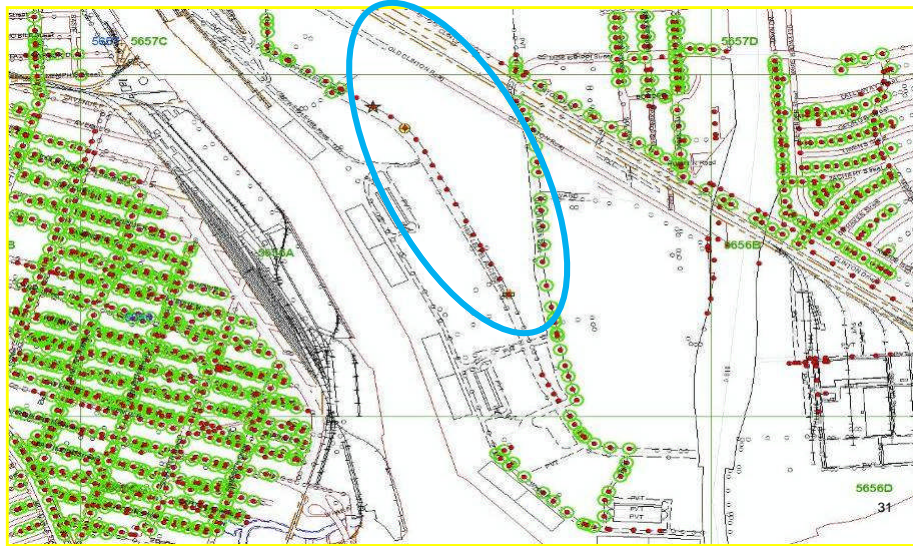
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Safety Violations Cause Delays



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Unauthorized Attachments Cause Delays





Other Causes of Delays

- Weather
- Mutual Assistance Agreements
- Electric Service Outages

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Other Causes of Delays

- State PUC safety and reliability requirements
- Obtaining private property easements
- Union work stoppages
- Design workload
- Materials
- Switching
- Environmental concerns
- Road construction

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Wireless Attachments Are Far More Complex

- Much More Equipment
- Different Shapes, Sizes, Power Levels, RF Levels
- Numerous Operational, Reliability and Safety Considerations
- Pole Top Antennas Typically Require Expansion of Capacity
- Require Case-By-Case Analysis

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Key Takeaways

- Numerous Factors Beyond Pole Owner Control Can Delay Make-Ready
- Strict Make-Ready Timelines Impossible Because Of These Factors

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Electric v. Communications Work

- Electric Work Is Far More Complicated Than Communications Work
- Communications Contractors Are Not Qualified to Perform It

Joseph Snyder, P.E.
National Grid

nationalgrid

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Utility Pole Work



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Electric Workers – Insulate & Isolate

Insulated from energized conductors with:

- ☐ Rubber Gloves
- ☐ Rubber Sleeves

Isolated from energized conductors with:

- ☐ Insulated Aerial Devices (dielectrically tested boom inserts)
- ☐ Insulated Work Platforms
- ☐ Rubber Hose, Blankets and other Insulated Protective Cover-Up Equipment
- ☐ Approved Hard Covers
- ☐ Approved Live Line Tools
- ☐ Minimum Working Clearances
- ☐ Specially Designed Tools

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Electric Work – Insulate & Isolate



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Electric Work \neq Communication Work

Electric Work



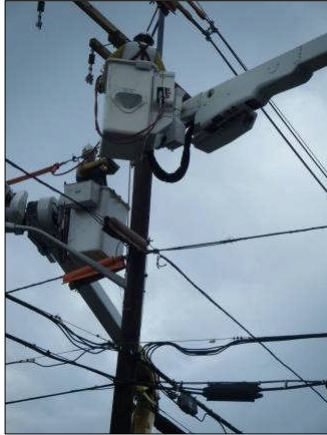
Communication Work



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Electric Work ≠ Communication Work

Electric Work



Communication Work



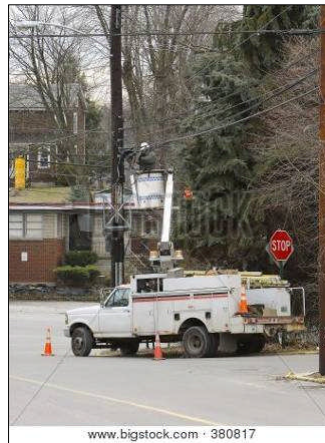
45

Electric Work ≠ Communication Work

Electric Work



Communication Work



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Key Takeaways

- Electric Work Far More Complicated And Difficult Than Communications Work
- Electric Work Takes Longer than Comparable Communications Work
- Communications Contractors Not Qualified to Perform Electric Work

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Electric Utilities Must Control Electric Make-Ready

“Electric Make-Ready Work is Complicated and Dangerous and Must Remain Within the Sole Control of Electric Utilities”

Steve Eisenrauch
Dominion Virginia Power



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Electric Work Far More Dangerous

- Un-insulated 34,500 Volts v. Insulated Maximum of 240 Volts
- Elaborate Safety Procedures
- Lethal Worker and Public Safety Issues
- Must Understand Mechanics of Electric Distribution System

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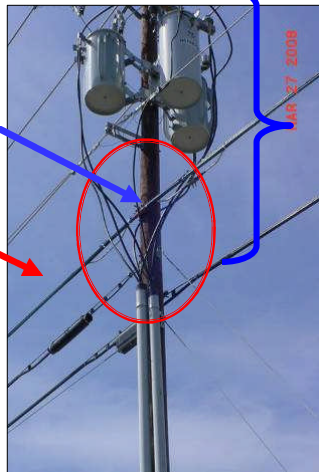


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Speed-To-Market = DANGER!

Secondary
power
conductors

CATV
facilities
through
power
space



Power
Space



52

Speed-To-Market =

DANGER!



53

NESC and OSHA Violations

Secondary
Power Line

DANGER!



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Attacher Contractors Are Dangerous

- State PUC expects full control by utility
- Allegiance to attacher, not electric utility
- May result in injuries, pole damage, safety violations, use of defective equipment
- Attachers have no design expertise
- Attachers lack critical info about system
- Utility must control quality and impact
- Union agreements may prohibit

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Key Takeaways

- Unsafe to Cede Control of Electric Facilities to Communications Attachers
- Allowing Attachers to Hire Contractors for Design and Make-Ready Work is Dangerous
- Attacher Contractors Must Be Confined To the Communications Space and To Performing the Attacher's Own Work

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Distinctions Between ILEC/Electric Relationship and Electric/Cable Relationship

- State Jurisdiction Over the Relationship Between Two Public Utilities
- Contract Distinctions

Tom St. Pierre
American Electric Power



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Joint Use Relationship

- Historical Relationship Built Upon Eliminating the Need to Build Multiple Pole Lines
- Each Party Shares the Burdens and Benefits of Pole Ownership Through the Mutual Sharing Of Pole Ownership and Maintenance

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Distinctions

- ILECs Are Pole Owners
- ILECs Do Not Simply Attach
- ILECs Own Millions of Poles
- Some Jointly Owned With Electric
- Electric Utilities, Cable Cos., CLECs Depend on ILECs for Access
- Mutual Dependency Governs ILEC/Electric Utility Joint Use

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Joint Use Relationship

- Contracts Designed with the Assumption that Both Parties Have the Capacity as Pole Owners to Engineer and Maintain Pole Plant
- Each Party is Generally Permitted to Engineer and Construct Their Own Attachments and Pole Plant

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Full Menu Versus Ala Carte Pricing

- Both ILECs and Electrics Pay Higher Annual Attachment Expenses But in Return Receive a Full Menu of Benefits. CATVs and CLECs Order From an Ala Carte Subsidized Menu
- Full Menu of Benefits Includes:
 - Initial Construction Designed to Accommodate Both Parties
 - Lower Make Ready Costs
 - Additional Space to Accommodate Multiple Lines and Appurtenances
 - Preferred Position on Pole
 - Mutual Use of Easement Rights

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State Jurisdiction

- States are Acutely Interested in the Compensation Paid Between Two Public Utilities
- State Review Designed to Avoid Cross-Subsidization and Collusion to Increase Rates
- As a General Rule Compensation Paid Between Two Public Utilities Must be Equitable to the Rate Payers of Both Utilities
- Joint Use Expenses and Cost Recovery Are Built into the Rate Base of the Public Utility
- In Cases Where an ILEC is Being Denied Access Rights or Charged an Inequitable Fee, the ILEC May Seek the Protection of the State Public Service Commission

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Key Takeaways

- Joint Use Relationship is Very Different
- Lowering the Attachment Rate for ILECs Would Give ILECs a Competitive Advantage Over Cable and CLECs by Providing ILECs a Full Menu of Benefits at an Ala Carte Subsidized Price
- ILECs Are Already Protected Through State Jurisdiction Remedies

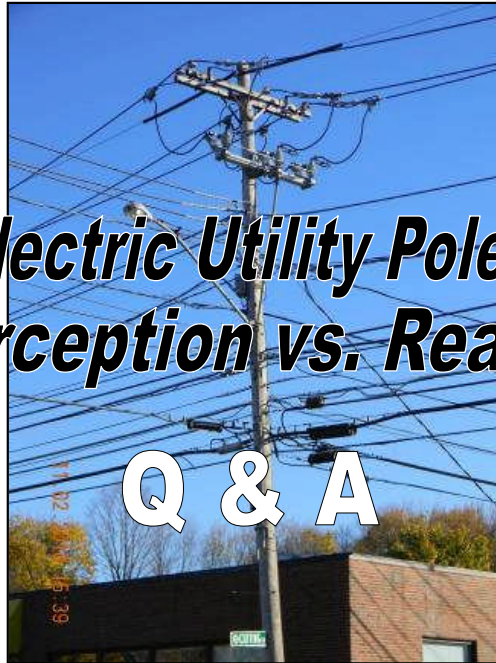
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Final Wrap-Up

- Electric system safety and reliability need to trump make-ready deadlines
- Numerous uncontrollable variables render make-ready deadlines impossible to meet
- Allowing contractors to hire design and make-ready contractors is unsafe
- Lowering the attachment rate for ILECs would increase their competitive advantage over cable companies and CLECs

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Electric Utility Poles Perception vs. Reality

Q & A